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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

RICKY EXE, and DUSTIN CLARK,)	Case No. 6:22-cv-00451-YY
)	
Plaintiffs,)	DEFENDANT KEVIN BOWSER'S
)	ANSWER AND AFFIRMATIVE
v.)	DEFENSES
)	
KEVIN J. BOWSER, and MONTE J.)	
MCBETH,)	
)	
Defendants.)	

COMES NOW Kevin J. Bowser, and in response to the First Amended Complaint
filed herein, hereby admits, denies and alleges as follows:

1.

Paragraph 1 is admitted in part and denied in part as follows: Bowser ADMITS
that Exe was an inmate in prison while Bowser was employed as a corrections officer; the
balance of allegations are DENIED.

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1 – DEFENDANT KEVIN BOWSER'S ANSWER AND AFFIRMATIVE DEFENSES

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2.

Paragraph 2 contains legal conclusions and theories that do not call for an admission or denial.

3.

Paragraph 3 is admitted in part and denied in part as follows: Bowser ADMITS that Clark was an inmate in prison while Bowser was employed as a corrections officer; the balance of allegations are DENIED

4.

Bowser has insufficient information to admit or deny paragraph 4 and on that basis DENIES it.

5.

Paragraph 5 contains legal conclusions and theories that do not call for an admission or denial.

6.

Paragraph 6 contains legal conclusions and theories that do not call for an admission or denial.

7.

Paragraph 7 contains legal conclusions and theories that do not call for an admission or denial.

8.

Paragraph 8 is ADMITTED.

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2 – DEFENDANT KEVIN BOWSER’S ANSWER AND AFFIRMATIVE DEFENSES

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9.

Paragraph 9 is ADMITTED.

10.

Paragraph 10 is ADMITTED.

11.

Paragraph 11 contains legal conclusions and theories that do not call for an admission or denial.

12.

Bowser has insufficient information to admit or deny paragraph 12 and on that basis DENIES it.

13.

Paragraph 13 is DENIED.

14.

Bowser has insufficient information to admit or deny paragraph 14 and on that basis DENIES it.

15.

Paragraph 15 is DENIED.

16.

Bowser has insufficient information to admit or deny paragraph 16 and on that basis DENIES it.

17.

Paragraph 17 is DENIED.

3 – DEFENDANT KEVIN BOWSER’S ANSWER AND AFFIRMATIVE DEFENSES

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18.

Paragraph 18 is DENIED.

19.

Paragraph 19 is DENIED.

20.

Paragraph 20 is admitted and denied as set forth above.

21.

Paragraphs 21 through 25 contain legal conclusions and theories that do not call for admissions or denials.

22.

Unless specifically and expressly admitted above, Bowser DENIES each and every allegation in the First Amended Complaint.

WHEREFORE, having answered Plaintiff's First Amended Complaint, for his affirmative defenses Bowser hereby alleges as follows:

FIRST AFFIRMATIVE DEFENSE

(State of Limitations)

1.

Plaintiff's claim falls outside the applicable statute of limitations.

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SECOND AFFIRMATIVE DEFENSE

(Causation)

2.

Plaintiffs' damages, if any, were the result of intervening and superseding causes, including the actions of other persons that were not within the control of Bowser.

THIRD AFFIRMATIVE ACTION

(No State Action)

3.

Plaintiffs' damages, if any did not result from any action or inaction by any state actor, officer or employee.

FOURTH AFFIRMATIVE DEFENSE

(Prison Litigation Reform Act)

4.

Plaintiffs have failed to exhaust their administrative remedies within the Oregon Department of Corrections as required by 42 U.S.C. § 1997(e).

FIFTH AFFIRMATIVE DEFENSE

(Reserved)

5.

Bowser reserves the right to plead additional affirmative defenses consistent with FRCP 8 and 12 constituting an avoidance of liability or an affirmative defense as may be revealed under discovery proceedings in this matter.

WHEREFORE, Defendant pray for the following relief:

5 – DEFENDANT KEVIN BOWSER'S ANSWER AND AFFIRMATIVE DEFENSES

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- 1) That Plaintiffs' Complaint be dismissed with prejudice, and that Plaintiffs take nothing by way of relief;
- 2) That Defendant be awarded his reasonable attorney fees, costs and expenses; and
- 3) That Defendant be awarded such further relief, including prevailing party fees, as is just and appropriate under the circumstances.

Dated this 13th day of June, 2022.

HELTZEL WILLIAMS PC

s/ Andrew D. Campbell
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CERTIFICATE OF SERVICE

I hereby certify that I served the attached **DEFENDANT KEVIN BOWSER'S ANSWER AND AFFIRMATIVE DEFENSES** on:

John David Burgess
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Attorney for Plaintiffs

Mr. Carl L Post
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Attorney for Plaintiffs

- ☐ By mailing to said attorney(s) a full and correct copy therefor, contained in a sealed envelope, with postage paid, addressed to said attorney(s) as stated above and deposited in the United States Post Office at Salem, Oregon.
- ☐ By hand delivering to said attorney(s) a true copy thereof.
- ☒ By emailing to said attorney(s) at their above listed email address(es) a true copy thereof.
- ☒ By electronic filing with the District Court's CM/ECF system. The CM/ECF system generated Notice of Electronic Filing constitutes proof of service upon a Filing User in accordance with Fed. R. Civ. P. 5(d).

Dated this 13th day of June, 2022.

HELTZEL WILLIAMS PC

s/ Andrew D. Campbell
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